

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN SENATE MAY 2, 2006

AMENDED IN SENATE APRIL 19, 2006

SENATE BILL

No. 1435

Introduced by Senator Ortiz

February 22, 2006

An act to add Section 12315 to the Welfare and Institutions Code, relating to in-home supportive services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1435, as amended, Ortiz. IHSS pilot project: eligibility: purchase of service.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient or by or through contract by the county, qualified, aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program.

This bill would require the department to establish a 4-year pilot project, that would authorize certain individuals who are not financially eligible to receive in-home supportive services, to purchase those services. The bill would require the pilot project to be conducted in 3 counties that consent to participate, and would require the department to develop eligibility guidelines for individuals ~~who wishing to purchase services under the pilot project, in conjunction and to consult informally~~ with designated entities and stakeholders. This bill would also permit a participating county to contract with a

qualified private agency home care provider, as specified, if the provider meets specified requirements.

This bill would require a participating county to evaluate the pilot project in accordance with criteria set forth in the bill. The bill would require the department to ensure that the pilot project is conducted so as to secure maximum federal financial participation, including, if necessary, applying for a federal waiver.

This bill would provide that participating counties shall not be responsible for a share of cost for the administration of, or services provided under, the bill. The bill would prohibit a person providing in-home supportive services pursuant to the bill from being paid more in wages and benefits than if the person were providing those services to an individual under the In-Home Supportive Services program, and would prohibit the eligibility assessment of an applicant under the In-Home Supportive Services program from being delayed by the eligibility assessment of a person desiring services under the bill. It would further provide that it shall only be implemented if sufficient funds are appropriated in the annual Budget Act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 California In-Home Supportive Services Public-Private
- 3 Partnership Pilot Project Act.
- 4 SEC. 2. The Legislature finds and declares all of the
- 5 following:
- 6 (a) California has a rapidly aging population.
- 7 (b) According to the Legislative Analyst's Office, between
- 8 2004 and 2010, the number of Californians 65 years of age and
- 9 older will increase by 2.4 percent per year, which will result in an
- 10 increase of more than 604,000 Californians in this age group in
- 11 just six years.
- 12 (c) The Department of Finance projects that Californians over
- 13 65 years of age, which was 3,627,284 in 2000, will have grown
- 14 to number at least 4,526,578 by 2010.
- 15 (d) This explosion in our aging population will devastate
- 16 California's health care delivery system unless action is taken to

1 improve our ability to provide low-cost personal care services as
2 an alternative to acute care and nursing home stays.

3 (e) Unique public-private partnerships should be created to use
4 economies of scale to effectively and efficiently deliver services
5 to this population.

6 (f) California has developed an in-home supportive services
7 (IHSS) delivery system that is, by virtue of its ubiquity and
8 cost-effectiveness, uniquely qualified to help deal with this
9 growing aging population.

10 (g) Allowing the IHSS delivery system, which has been
11 created with public funds, to reduce nursing home costs and to
12 keep persons safely at home, to begin to deliver at-cost services
13 to Californians who do not qualify for Medi-Cal, is an
14 appropriate reward for taxpayers who have paid to create this
15 infrastructure.

16 SEC. 3. Section 12315 is added to the Welfare and
17 Institutions Code, to read:

18 12315. (a) (1) The department shall conduct a pilot project
19 for the purpose of authorizing the individuals described in
20 subdivision (b) to purchase, at their own expense, in-home
21 supportive services (IHSS) pursuant to this chapter. The pilot
22 project shall continue for four years, and by the end of the third
23 year, each participating county shall evaluate the success of the
24 pilot project, based on the criteria set forth in subdivision (c). The
25 pilot project shall be conducted in three counties that consent to
26 participate.

27 (2) The department shall invite up to three counties to
28 participate in the pilot project, one of which may have a
29 population of fewer than 200,000, one of which may have a
30 population between 200,000 and 700,000, and one of which may
31 have a population greater than 700,000.

32 (3) The department shall *implement rules that* require each
33 county that desires to participate in the pilot project to
34 demonstrate, *upon applying to participate and once a quarter*
35 *thereafter*, that it has a surplus of available workers on, or
36 applying to be on, its registry to ensure that services that would
37 otherwise be provided to persons who meet current IHSS
38 eligibility requirements are not, instead, being provided to pilot
39 project participants.

(4) In order to ensure that persons meeting current IHSS eligibility requirements continue to receive *their assessed* services, the public authority in a county that participates in the pilot project may contract with a private agency home care provider to provide any portion of the pilot project services, if the private agency home care provider does all of the following:

(A) Pays its workers wages and benefits no less than those in the public authority's collective bargaining agreement.

(B) Employs either the consumer's preferred worker or workers from a registry of qualified workers maintained by the public authority.

(C) Maintains a list of its workers with the public authority.

(5) ~~The department, in conjunction~~ *When drafting regulations for the pilot project, the department shall consult informally with the California Association of Counties, the County Welfare Directors Association of California, the California Association of Public Authorities, senior citizen groups, IHSS employee representatives, and other stakeholders,* ~~shall~~ *to develop eligibility guidelines for individuals wishing to purchase in-home supportive services under the pilot project, and shall make shall also accept from those stakeholders recommendations regarding any operational issues not otherwise addressed in this section.*

(b) The pilot project established pursuant to this section shall apply to an individual, qualified by assessment to receive IHSS services, but who is not otherwise eligible to receive services pursuant to this chapter or pursuant to the Medi-Cal program, because of either *or both* of the following:

(1) His or her income level is less than 300 percent of the federal poverty level, but is too high to receive those services with a share of cost of less than 100 percent.

(2) He or she has an income of 300 percent or less of the federal poverty level but fails the Medi-Cal asset eligibility test.

(c) The success of the pilot project shall be based on the following factors:

(1) Consumer satisfaction.

(2) Cost-effectiveness.

(3) Average turnover of providers.

(4) The ability to continue to provide services to persons who meet current IHSS eligibility requirements.

1 (5) The effect of the pilot project on non-IHSS vendors,
2 workers, and referral agencies.

3 (d) In evaluating the project, the county shall ensure all of the
4 following:

5 (1) An independent, impartial, outside evaluator or a county
6 employee independent of the project shall be used.

7 (2) If the county decides to employ an outside evaluator, the
8 county shall be responsible for all costs associated with the
9 evaluation.

10 (3) The department shall approve the evaluation design and
11 plan.

12 (4) Quarterly progress reports shall be completed during the
13 evaluation year.

14 (e) The department shall take all necessary steps to ensure that
15 the pilot project is conducted so as to secure maximum federal
16 financial participation, including, if necessary, applying for a
17 federal waiver.

18 (f) The department shall furnish the results of the evaluation of
19 each pilot project to the relevant policy and budget committees of
20 the Legislature.

21 (g) Using existing assessment methods, a participating county
22 shall assess individuals who wish to purchase in-home supportive
23 services under the pilot project *as needed, and shall determine*
24 *the maximum number of hours they may receive*, in order to
25 ensure program integrity and continuity.

26 (h) Individuals who receive services under the pilot project
27 shall receive those services, and only those services, for which
28 they are assessed.

29 (i) A participating county shall not be responsible for any
30 share of cost for the administration of the pilot project, or for the
31 services provided under the pilot project.

32 (j) A payroll or billing system created or purchased for the
33 purpose of implementing this section shall not be paid for with
34 public funds.

35 (k) An individual qualified to receive services under this
36 section shall have the right to hire and fire his or her individual
37 provider.

38 (l) A participating county shall ensure that a worker providing
39 in-home supportive services to a person described in subdivision

40 (b) shall be paid no more in wages and benefits than the worker

1 would receive if he or she were providing the same services to an
2 individual who is eligible to receive in-home supportive services
3 under this chapter.

4 (m) A participating county shall ensure that no person who
5 applies to receive in-home supportive services under this chapter
6 shall have his or her assessment of eligibility for those services
7 delayed by the assessment of eligibility for services of a person
8 described in subdivision (b).

9 (n) Any use of this system for private-pay patients shall
10 require that neither the state nor the counties spend taxpayer
11 dollars to assess, provide services to, bill, or collect payment
12 from these private-pay patients *or to administer this program*.

13 (o) Any use of this system to create or employ a payroll
14 system for the providers of these services shall also be borne by
15 the private-pay patients.

16 (p) Any public-private partnership undertaken under this
17 section shall comply with ~~governing Medicare and Medicaid~~
18 ~~rules and regulations~~. *the rules governing the standard of care*
19 *for recipients receiving IHSS services under the new federal*
20 *waiver*.

21 (q) This section shall only be implemented if sufficient funds,
22 as determined by the department, are appropriated in the annual
23 Budget Act. All costs incurred by a participating county ~~in the~~ *or*
24 *the department in the initial* implementation of this section shall
25 be funded by that appropriation.